



JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CAPITAL ONE, N.A., as Trustee of the  
BETA INDIVIDUAL EMPLOYER  
WELFARE BENEFIT PLAN AND  
TRUST, and POINTE BENEFIT  
CONSULTANTS, LLC as  
Administrator/Recordkeeper of the BETA  
INDIVIDUAL EMPLOYER WELFARE  
BENEFIT PLAN AND TRUST,

Plaintiffs,

vs.

LAWRENCE SAKS, M.D., JEANNE  
SAKS, and MASSACHUSETTS MUTUAL  
LIFE INSURANCE COMPANY,

Defendants.

And related cross-actions

Case No. 2:13-cv-06411-SJO-PJW  
Honorable S. James Otero  
**JUDGMENT**  
Courtroom: 1

1           After considering the parties' Motions for Judgment pursuant to Federal Rule  
 2 of Civil Procedure Rule 52 and the arguments of counsel at a hearing on June 9,  
 3 2015, this Court issued its Findings of Facts and Conclusions of Law on June 26,  
 4 2015 (Docket # 131). Based on the aforementioned matters and for good cause  
 5 appearing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS  
 6 FOLLOWS:

7           (1) Judgment shall be entered in favor of Defendant, Cross-Claimant and  
 8 Counter-Claimant Massachusetts Mutual Life Insurance Company ("MassMutual")  
 9 on its claim against Defendant and Cross-Defendant Lawrence Saks ("Lawrence")  
 10 for misrepresentation with respect to life insurance policy no. 11-564-044 issued by  
 11 MassMutual and insuring Lawrence's life (the "Disputed Policy");

12           (2) As there is no cause of action in California for unjust enrichment,  
 13 MassMutual is not entitled to any recovery against Lawrence for unjust enrichment  
 14 with respect to the Disputed Policy; and

15           (3) Judgment shall be entered in favor of MassMutual on its claim against  
 16 Lawrence and Defendant and Cross-Defendant Jeanne Saks ("Jeanne") for  
 17 declaratory relief concerning the rights and duties of the parties with respect to the  
 18 Disputed Policy and, in accordance with the relief sought by MassMutual, this Court  
 19 declares that:

20           (a) Lawrence committed fraud and made material  
 21 misrepresentations to MassMutual and thus was not entitled to the  
 22 premiums waived for the Disputed Policy in the amount of \$201,530  
 23 per year for five years (totaling \$1,007,650 in unpaid premiums), and  
 24 the value of the Disputed Policy shall accordingly be calculated, taking  
 25 into account the unpaid premiums in the amount of \$1,007,650 and any  
 26 other adjustments to which MassMutual is entitled in accordance with  
 27 the terms of the Disputed Policy;

28

(b) the determination of the value of the Disputed Policy is referred to the Parties for resolution and is to be calculated in accordance with the terms of the Disputed Policy;

(c) Lawrence, Jeanne and Plaintiff and Counter-Defendant Capital One, N.A., as Trustee of the BETA Individual Employer Welfare Benefit Plan and Trust (“Capital One”) are bound by the Court’s judgment that the Disputed Policy’s waiver of premium benefit does not apply;

9 (4) As to MassMutual’s Counterclaim, since there is no remaining dispute  
10 as to the rights and obligations of the parties under the terms of the BETA  
11 Individual Employer Welfare Benefit Plan and Trust (“Plan”), or the Disputed  
12 Policy, Plaintiffs Capital One and Pointe Benefit Consultants, LLC, as  
13 Administrator/Recordkeeper of the Plan, are bound by this Judgment;

14 (5) Pursuant to the Court's August 6, 2014 Order granting in part Jeanne's  
15 Motion for Summary Judgment (Docket # 94), upon distribution of Plan assets,  
16 Plaintiffs are to directly disburse all of the Plan assets at issue to Jeanne rather than  
17 to Lawrence and any distributions of policies issued by MassMutual that comprise  
18 the Plan assets (including the Disputed Policy) shall be made pursuant to the terms  
19 of such policies;

20 (6) The Superior Court shall retain jurisdiction over any remaining disputes  
21 between Lawrence and Jeanne pursuant to the Marital Settlement Agreement  
22 between Lawrence and Jeanne: and

(7) Each party shall bear his, her or its own costs and attorneys' fees.

IT IS SO ORDERED.

Dated: July 21, 2015

S. Jane Otew

S. James Otero  
Judge of the United States District Court